

AMENDED IN SENATE JULY 23, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN SENATE MAY 28, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1386

**Introduced by Assembly Member Shirley Horton
(Principal coauthor: Assembly Member Correa)**

February 21, 2003

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Shirley Horton. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

~~This bill would, except as specified, authorize a person who utilizes a contractor with a license that is inactive, revoked, or suspended due to board disciplinary action to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to that licensee for performance of any act or contract. The bill would specify~~

~~that a contractor who in good faith submits an application to renew an unexpired license shall not be deemed to have actual or constructive knowledge that he or she was unlicensed when the invalidity is caused by the failure of the board to act on the renewal application prior to the license expiration date. Existing law authorizes a court to determine that a contractor has substantially complied with licensure requirements if specified conditions are met.~~

This bill would also require a contractor to demonstrate that he or she acted promptly and in good faith to reinstate his or her license upon learning it was invalid in order to meet substantial compliance of these licensure requirements. The bill would declare the intent of the Legislature that the changes made by the bill are declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7031 of the Business and Professions
- 2 Code is amended to read:
- 3 7031. (a) Except as provided in subdivision (e), no person
- 4 engaged in the business or acting in the capacity of a contractor,
- 5 may bring or maintain any action, or recover in law or equity in any
- 6 action, in any court of this state for the collection of compensation
- 7 for the performance of any act or contract where a license is
- 8 required by this chapter without alleging that he or she was a duly
- 9 licensed contractor at all times during the performance of that act
- 10 or contract, regardless of the merits of the cause of action brought
- 11 by the person, except that this prohibition shall not apply to
- 12 contractors who are each individually licensed under this chapter
- 13 but who fail to comply with Section 7029.
- 14 (b) Except as provided in subdivision (e), a person who utilizes
- 15 the services of an unlicensed contractor may bring an action in any
- 16 court of competent jurisdiction in this state to recover all
- 17 compensation paid to the unlicensed contractor for performance of
- 18 any act or contract.
- 19 (c) A security interest taken to secure any payment for the
- 20 performance of any act or contract for which a license is required
- 21 by this chapter is unenforceable if the person performing the act



1 or contract was not a duly licensed contractor at all times during
2 the performance of the act or contract.

3 (d) If licensure or proper licensure is controverted, then proof
4 of licensure pursuant to this section shall be made by production
5 of a verified certificate of licensure from the Contractors' State
6 License Board which establishes that the individual or entity
7 bringing the action was duly licensed in the proper classification
8 of contractors at all times during the performance of any act or
9 contract covered by the action. Nothing in this subdivision shall
10 require any person or entity controverting licensure or proper
11 licensure to produce a verified certificate. When licensure or
12 proper licensure is controverted, the burden of proof to establish
13 licensure or proper licensure shall be on the licensee.

14 (e) The judicial doctrine of substantial compliance shall not
15 apply under this section where the person who engaged in the
16 business or acted in the capacity of a contractor has never been a
17 ~~duly licensed contractor in this state or during any period when the~~
18 ~~contractor performed work with a license that is inactive, revoked,~~
19 ~~or suspended by disciplinary action of the board. However, duly~~
20 *licensed contractor in this state. However,* notwithstanding
21 subdivision (b) of Section 143, the court may determine that there
22 has been substantial compliance with licensure requirements
23 under this section if it is shown at an evidentiary hearing that the
24 person who engaged in the business or acted in the capacity of a
25 contractor (1) had been duly licensed as a contractor in this state
26 prior to the performance of the act or contract, (2) acted reasonably
27 and in good faith to maintain proper licensure, (3) did not know or
28 reasonably should not have known that he or she was not duly
29 licensed when performance of the act or contract commenced, and
30 (4) acted promptly and in good faith to reinstate his or her license
31 upon learning it was invalid. ~~A contractor who in good faith~~
32 ~~submits an acceptable application to renew an unexpired license~~
33 ~~shall not be deemed to have actual or constructive knowledge that~~
34 ~~he or she was unlicensed when the invalidity is caused solely by~~
35 ~~the failure of the board to act on the renewal application prior to~~
36 ~~the license expiration date.~~

37 (f) The exceptions to the prohibition against the application of
38 the judicial doctrine of substantial compliance found in
39 subdivision (e) shall apply to all contracts entered into on or after
40 January 1, 1992, and to all actions or arbitrations arising

1 therefrom, except that the amendments to subdivisions (e) and (f)
2 enacted during the 1994 portion of the 1993–94 Regular Session
3 of the Legislature shall not apply to either of the following:

4 (1) Any legal action or arbitration commenced prior to January
5 1, 1995, regardless of the date on which the parties entered into the
6 contract.

7 (2) Any legal action or arbitration commenced on or after
8 January 1, 1995, if the legal action or arbitration was commenced
9 prior to January 1, 1995, and was subsequently dismissed.

10 *SEC. 2. The Legislature finds and declares that the changes*
11 *made by this act do not constitute a change in, but are declaratory*
12 *of, existing law.*

